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SOUTHERN DISTRICT OF CALIFORNIA

HY:

DEPUTY

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BROOKE FANTELLI,

Plaintiff,

vs.

BUREAU OF LAND
MANAGEMENT, J. PETTER

Defendants.

CASE NO: **12CV0898 W JMA**

**CIVIL COMPLAINT FOR DAMAGES
FOR:**

- 1. DEPRIVATION OF CIVIL RIGHTS
UNDER COLOR OF AUTHORITY (42
USC 1983);**
- 2. BIVENS CLAIM (Pursuant to 42 USC
1983, Bivens v. Six Unknown Agents of
the federal Bureau of Narcotics, 403 U.S.
388 (1971), and 28 USC 2679(b)(2)).**

DEMAND FOR JURY TRIAL

BROOKE FANTELLI alleges as follows:

INTRODUCTION

1. Plaintiff Brooke Fantelli seeks judgment against Defendants the Bureau of Land Management, J. Petter, and other unknown officers, for the Assault and Battery of Plaintiff Brooke Fantelli as the result of the Bureau of Land Management's ranger, J. Petter intentionally and improperly using a taser on Ms. Fantelli on or about October 22, 2011 in the desert in California in an area called Ocotiel Wells, near State Road 2 (S-2) in the back of Split Mountain Road.

ORIGINAL

2. Defendants, the Bureau of Land Management (hereinafter "BLM") and Ranger J. Petter (hereinafter "Ranger Petter" or "the ranger"), without legal cause or excuse, made an unreasonable seizure of the person of Brooke Fantelli (hereinafter "Ms. Fantelli" or "Plaintiff"), on or about October 22, 2011, violating her rights under the First, Fourth, Fifth, and Eighth Amendments to the United States Constitution, and subjected her to summary, cruel and unusual punishment when actions of Defendants resulted in the personal injury and emotional distress of Ms. Fantelli, and caused damages to Ms. Fantelli.

3. This is an action for money damages brought pursuant to 42 U.S.C. sections 1981, 1983 and 1988, the First, Fourth, Fifth, and Eighth Amendments to the United States Constitution.

JURISDICTION

4. Plaintiff's claims for relief under Federal law arise under and violate the following laws:

- a. Federal Civil Rights Act under 42 U.S.C. §§1981, 1983, 1985, 1986 and 1988;
- b. the First Amendment of the United States Constitution (Freedom of Expression: includes the right to express one's sexual or gender identity (Transgendered Individual));
- c. the Fourth Amendment of the United States Constitution;
- d. the Equal Protection Clause and the Due Process Clause of the Fifth Amendment of the United States Constitution;
- e. the Eighth Amendment of the United States Constitution; and
- f. Bivens Claim, pursuant to Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics 403 U.S. 388 (1971).

THE PARTIES

5. At all times herein mentioned, Plaintiff Brooke Fantelli is, and was, an individual residing in the State of California and has legal standing to maintain an action for Deprivation of Civil Rights under Color Of Law, Deprivation Of Civil Rights under Color of Law (Monell Claim), and a Bivens Claim, pursuant to 42 U.S.C. §§1981, 1983, 1985, 1986 and 1988, Monell

1 v. Department of Social Services 436 U.S. 658 (1978), the First, Fourth, Fifth, and Eighth
 2 Amendments of the United States Constitution, and §42 USC 1983, Bivens v. Six Unknown
 3 Agents of the federal Bureau of Narcotics 403 U.S. 388 (1971), and §28 USC 2679(b)(2)).

4 6. Defendant BLM, is and was, at all times relevant to the matters alleged in this
 5 complaint, a federal agency organized under the laws of the United States of America, and the
 6 public employer of Ranger J. Petter.

7 7. In addition to the facts alleged in the following paragraphs, Ranger Petter, who at
 8 all times relevant herein, was an employee employed by the BLM. On information and belief,
 9 Defendant Ranger J. Petter's badge number is 1453, and in doing the things herein alleged, is
 10 sued in his individual and official capacity and acted within the course and scope of his
 11 employment and under color of federal law, to wit, under color of statutes, ordinances,
 12 regulations, policies, customs and usages of the United States.

13 8. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
 14 mentioned, each of the defendants was the agent and/or employee and/or co-conspirator of each
 15 of the remaining defendants, and in doing the things hereinafter alleged, was acting within the
 16 scope of such agency, employment and/or conspiracy and with the permission and consent of the
 17 other co-defendants. The acts of each of the defendants were adopted by and ratified by the
 18 remaining defendants.

19 9. Defendants BLM and Ranger Petter encouraged, assisted, ratified and/or with
 20 deliberate indifference failed to prevent any of the acts complained of herein and further created
 21 the policies that led to Plaintiff's injury on or about October 22, 2011.

22 **FACTS COMMON TO ALL COUNTS**

23 10. Brooke Fantelli (FKA Rodd James Fantelli) owns an off-road racing products
 24 business.

25 11. Ms. Fantelli was at the above specified location for the purpose of photographing
 26 models on or about October 22, 2011.

27 12. During the course of the photo-shoot, Ranger J. Petter arrived at the scene.
 28

1 13. When Ranger Petter arrived in his truck, he got out and demanded (as opposed to
2 asked) to see everyone's Identification without reasonable suspicion or probable cause.

3 14. Before Ranger Petter checked Ms. Fantelli's license, everything was fine and
4 Ranger Petter appeared to be acting in a professional manner.

5 15. Ms. Fantelli was formerly known as 'Rodd James Fantelli', and at the time, Ms.
6 Fantelli was in the process of having a sex-change; because of that, Ms. Fantelli's driver's
7 license still identified her as a man, as opposed to as a woman.

8 16. When Ranger Petter saw Ms. Fantelli's driver's license, his entire demeanor
9 changed.

10 17. Ranger Petter then had a conversation with Ms. Fantelli primarily regarding the
11 difference in her appearance (i.e. why Ms. Fantelli's ID showed a picture of a male).

12 18. Ranger Petter immediately asked: "You used to be a man?" to which, Ms.
13 Fantelli answered yes.

14 19. When the ranger realized that Ms. Fantelli was transgendered, he became openly
15 hostile and insulting to her.

16 20. Ranger Petter then immediately demanded to search Ms. Fantelli's truck.

17 21. Ranger Petter searched the truck, but when he found nothing illegal, he simply
18 retreated to his vehicle.

19 22. This search was conducted without any probable cause and without a warrant.

20 23. Ranger Petter then proceeded to sit in his vehicle and watch Ms. Fantelli and the
21 people present at the photo-shoot for approximately one hour.

22 24. During that time, Ms. Fantelli and her acquaintance, Danny Sheets, stood near
23 Ms. Fantelli's truck watching the photo-shoot, talking and having some beer.

24 25. After the one hour of Ranger Petter watching them, Ms. Fantelli approached
25 Ranger Petter and told him that he was making the models uneasy, so if he had no other business,
26 that maybe he could move along.

27 26. Ranger Petter quickly replied that he was not going to move along, in fact he
28 stated that he was going to arrest Ms. Fantelli.

1 27. When Ms. Fantelli inquired about the basis for Ranger Petter's intention to arrest
2 her, Ranger Petter stated that he was going to arrest her for public drunkenness.

3 28. Although, Ms. Fantelli had consumed some beer that day she was not intoxicated
4 and she was not driving or operating any vehicles at the time.

5 29. Prior to stating the intention to arrest Ms. Fantelli, Ranger Petter did not request
6 that Ms. Fantelli take any test to detect her alcohol level.

7 30. Close in time to the point when Ranger Petter stated that he intended to arrest Ms.
8 Fantelli, two sheriffs arrived at the scene.

9 31. Ranger Petter then ordered Ms. Fantelli to put her hands up and lie face down in
10 the dirt.

11 32. Ms. Fantelli then raised her hands up into the air and asked Ranger Petter why she
12 had to lay face down in the dirt.

13 33. Ms. Fantelli further stated that she was wearing a black top in the desert and was
14 cooperating, and that there was no need to have her lie face down on the ground.

15 34. In response to Ms. Fantelli's request not to lay face down in the dirt, Ranger
16 Petter discharged his taser at Ms. Fantelli.

17 35. The taser barbs hit Ms. Fantelli in her abdomen between her belly button and her
18 breasts.

19 36. In response to being tasered, Ms. Fantelli lost control of her muscle function and
20 fell to the ground.

21 37. While she was still lying on the ground and did not offer any resistance or
22 provocation of any kind, Ranger Petter without any further warning, again discharged his taser
23 against Ms. Fantelli.

24 38. The second taser discharge hit Ms. Fantelli in the crotch.

25 39. Ranger Petter tasered Ms. Fantelli twice despite the fact that she posed no
26 immediate threat of harm to Ranger Petter or anyone else, and while Ms. Fantelli was entirely
27 cooperating with all of Ranger Petter's orders.

28 40. There was no cause or basis for Ranger Petter to have tasered Ms. Fantelli at all.

1 41. The video recording of part of this incident, which shows the ranger tasing Ms.
2 Fantelli when her hands are in the air, can be found on YouTube at the following web address:
3 http://www.youtube.com/watch?v=zGJOkdEaO_k

4 42. Ranger Petter then ripped one of taser barbs out of Ms. Fantelli, causing her to
5 bleed.

6 43. Ranger Petter's actions went against all taser training and policy, which mandates
7 that the barbs be left in, to be removed by a medical professional.

8 44. Ranger Petter thus removed the taser barbs in an improper manner that was
9 intended to inflict pain and injury upon Ms. Fantelli.

10 45. Ranger Petter's use of the taser also caused Ms. Fantelli's jeans to rip.

11 46. Ranger Petter then handcuffed Ms. Fantelli and put Ms. Fantelli in the BLM's
12 truck that Ranger Petter was driving.

13 47. When putting Ms. Fantelli in the truck, Ranger Petter intentionally and violently
14 elbowed her in the stomach.

15 48. The elbowing was also entirely unnecessary because Ms. Fantelli was not
16 resisting, was handcuffed, bleeding, and in pain from the wounds inflicted upon her by Ranger
17 Petter.

18 49. After Ranger Petter arrested Ms. Fantelli, she was taken to the hospital emergency
19 room for the wounds inflicted upon her by the ranger.

20 50. In the hospital, Ranger Petter continued to threaten and verbally abuse Ms.
21 Fantelli.

22 51. Later, Ranger Petter incarcerated Ms. Fantelli in jail for 23 hours with bail set at
23 \$25,000.

24 52. Ranger Petter cited Ms. Fantelli with being drunk in public, resisting arrest, and
25 making a terrorist threat.

26 53. The alleged "terrorist threat" was supposedly made in the hospital and it involved
27 Ms. Fantelli telling Ranger Petter that she was not going to just let this incident go without taking
28 any action, which was a specific reference to 'lawful legal action'.

1 54. Ranger Petter claimed that this constituted a terrorist threat.

2 55. On the date in question, there was someone present with Ms. Fantelli who
3 actually was drunk: Danny Sheets, who had been standing directly next to Ms. Fantelli, was
4 extremely drunk at the time, but Ranger Petter did not arrest, interrogate, attack or taser him.

5 56. Ranger Petter's decision to arrest, assault, and batter Ms. Fantelli, but to ignore
6 Mr. Sheets, shows that Ranger Petter's actions were intentionally discriminatory against Ms.
7 Fantelli, based her status of being transgendered.

8 57. The fact that Ranger Petter discharged his taser into Ms. Fantelli's crotch
9 specifically rather than any other part of her body, also indicates from the circumstances, that
10 Ranger Petter was intentionally harming her and discriminating against her as a result of her
11 sexual/gender identity of being a transgendered individual.

12 58. Plaintiff is informed and believes, and thereon alleges that the BLM has been
13 engaging in unlawful enforcement procedures against Transgendered and Transsexual
14 Individuals (hereinafter referred to as "Transgendered Individuals") in a discriminatory manner,
15 which has led to the injury of multiple individuals in an over-arching, unwritten policy and
16 procedure of the BLM to discriminate against Transgendered individuals and to cause fear in and
17 deter people who are considering going through the process of expressing their internal
18 sexual/gender identity.

19 59. Plaintiff is informed and believes, and thereon alleges that the abovementioned
20 policies and procedures of the BLM were made known to Ranger Petter.

21 60. Plaintiff alleges that on or about October 22, 2011, in the abovementioned desert
22 location in California, Ms. Fantelli was injured, falsely arrested, and unlawfully detained, under
23 color of authority, and without probable cause or reasonable suspicion, by Defendants BLM and
24 Ranger Petter.

25 61. Plaintiff alleges that in the course of encountering, interacting with, detaining and
26 arresting her, Defendant Ranger Petter unnecessarily and unjustifiably discharged his taser at Ms.
27 Fantelli two times, one in her abdomen and one in her crotch, and further unnecessarily and
28 unjustifiably elbowed her violently in her stomach.

1 62. Plaintiff alleges that this conduct was intentional, reckless, grossly negligent,
2 wanton, willful and done without regard to and in violation of Plaintiff's Constitutional rights.

3 63. Plaintiff alleges that on or about October 22, 2011, Defendant Ranger Petter,
4 while so employed by Defendant BLM, and acting under color of law, detained, arrested,
5 assaulted and battered and used excessive and improper force on Plaintiff in violation of her
6 rights under the First, Fourth, Fifth, and Eighth Amendments of the United States Constitution.

7 64. Plaintiff alleges that the force used by Defendant Petter was unjustified and
8 excessive, because Ms. Fantelli was unarmed, had committed no crime (and defendants knew
9 that plaintiff had committed no crime), was cooperating, and was not a threat to the safety of
10 Ranger Petter or others.

11 65. Plaintiff was sober and clear-headed at the time and place of this incident, and not
12 intoxicated or drunk as claimed by defendants.

13 66. As a direct and proximate result of the aforementioned acts of Defendants, and
14 each of them, Plaintiff suffered the following injuries and damages for which Plaintiff may
15 recover:

- 16 a. Violation of Ms. Fantelli's Constitutional Rights under the First, Fourth, Fifth,
17 and Eighth Amendments to the United States Constitution to be free from an
18 unreasonable search and seizure of her person and summary, cruel and unusual
19 punishment;
- 20 b. Medical/Hospital Bills: from when Ms. Fantelli was in the hospital receiving
21 treatment for the injuries caused by the ranger, including injuries to her abdomen
22 and crotch, injuries from where the ranger elbowed her, injuries from where the
23 handcuffs chaffed her skin, and from any other Medical/Hospital Bills she
24 received which arose as a result of this incident.
- 25 c. Bail: Ms. Fantelli was required to post a bond of twenty five thousand (\$25,000),
26 which is still being retained;
- 27 d. Physical Pain and Suffering: as caused by the wounds inflicted upon Ms. Fantelli
28 by the taser in her abdomen and crotch, and the pain and suffering from Ranger

Petter's elbowing of Ms. Fantelli in the stomach, and the pain and suffering of the chaffing caused by the handcuffs.

- e. Emotional Distress: caused by Ranger Petter's conduct, the orders he gave, the use of a taser, the elbowing he did, and the verbal harassment he engaged in while she was in the hospital. Emotional Distress from the horror, humiliation, and fear Ms. Fantelli suffered from being treated savagely and being discriminated against by a government agent/officer just because she happens to be transgender. The Emotional Distress that arose when Ranger Petter committed this brutal attack against Ms. Fantelli, which has caused her to fear that other government agents would engage in this same violent conduct against her. The emotional distress she suffered from this brutal attack and Ms. Fantelli's knowledge that her pain, humiliation, and fear were only inflicted on her because she was transgendered.
- f. Loss of Earnings and Loss of Earnings Capacity: resulting from Ms. Fantelli's injuries and distress over the incident. Ms. Fantelli could not work during the time she was in the hospital for medical treatment and during her time at home during recovery. Ms. Fantelli could not work when she was incarcerated and when she was forced to hire an attorney to address the charges against her. Ms. Fantelli's earnings capacity is also diminished because she is terrified of encountering further government agents/officers who could engage in the same conduct as Ranger Petter. Ms. Fantelli is also fearful of going to the desert where her business takes place because of the chance of encountering Ranger Petter and other government officers that could engage in this same violent and discriminatory conduct again.
- g. Property Damage: resulting from the taser ripping Ms. Fantelli's clothing.
- h. Attorney's Fees: as resulting from this incident.
- i. Court Costs: as resulting from this incident.
- j. Punitive Damages: as against Ranger Petter, as resulting from his outrageous and intentionally violent and threatening conduct against Ms. Fantelli to deter future

discriminatory and unnecessarily violent conduct by Ranger Petter and other agents/officers of the BLM and other United States agencies.

67. Defendant BLM is liable through the application of *respondeat superior* pursuant to sections 28 USC 2679 and 42 USC 1983, for the acts of its employees/agents named herein who at all times alleged herein were acting within the course and scope of their employment with said public entities.

FIRST CLAIM FOR RELIEF

(By Plaintiff Against All Defendants For **DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW** [42 USC §§1981, 1983, 1985, 1986 and 1988 under Federal Violation of Civil Rights])

68. Plaintiff repeats and realleges each and every allegation of the foregoing paragraphs 1 through 67 as though fully set forth hereinafter.

69. This cause of action is to redress a deprivation, under color of authority, statute, ordinance, regulation, policy, custom, practice or usage of a right, privilege and immunity secured to Plaintiff by the First, Fourth, Fifth, and Eighth Amendments to the United States Constitution.

70. At all times mentioned herein, Defendant BLM employed the individual defendants including Ranger Petter, herein. Defendant BLM provided their individual defendant employees and agents with official badges and identification cards which designated and described the bearers as employees of the BLM.

71. During all times mentioned herein, the individual defendants, and each of them, separately and in concert, acted under color and pretense of law, under color of the statutes, ordinances, regulations, policies, practices, customs and usages of the United States. Each of the individual defendants here, separately and in concert, deprived Plaintiff of the rights, privileges and immunities secured to her by the First, Fourth, Fifth, and Eighth Amendments to the United States Constitution and the laws of the United States.

72. On or about October 22, 2011, defendants Ranger Petter and other unknown officers forcibly detained and seriously injured Ms. Fantelli, as described above, all of which

1 constituted excessive, unjustifiable, and unreasonable force in violation of Plaintiff's right to be
 2 free from unreasonable searches and seizures, and her due process right to be free from arbitrary
 3 deprivations of liberty, property and the pursuit of happiness. The above referenced alleged
 4 conduct was done by Defendant Officers who acted grossly negligent, recklessly, wantonly,
 5 intentionally, willfully and deliberately indifferent to the constitutional rights of Plaintiff.

6 73. At all times herein relevant, and prior thereto, Defendant BLM had a duty to:

- 7 a. To train BLM officers to respect and protect the Federal constitutional and
- 8 statutory rights of citizens, arrestees and detainees;
- 9 b. To supervise BLM officers to assure that they do not use excessive force, and
- 10 do not assault and batter citizens;
- 11 c. To supervise BLM officers to assure that they respect and protect the Federal
- 12 constitutional and statutory rights of citizens, arrestees and detainees;
- 13 d. To not retain employment of BLM officers who have a propensity for
- 14 violence and use of excessive force;
- 15 e. To refrain from the use of restraint techniques that can pose an unreasonable
- 16 risk of serious bodily injury, and constitute the use of unreasonable force;
- 17 f. To train BLM officers to assure that they know the proper procedures for
- 18 investigating criminal conduct;
- 19 g. To train BLM officers to assure that officers know how to properly use a
- 20 taser;
- 21 h. To train BLM officers to assure that officers know when it is necessary to use
- 22 force;
- 23 i. To train BLM officers in how to correctly handle Transgendered Individuals;
- 24 j. To act reasonably in its hiring of its officers to make sure its officers are
- 25 competent and will obey the laws of the United States when carrying out their
- 26 duties;
- 27
- 28

- k. To act reasonably in its retention of its officers to make sure its officers continue to uphold the laws of the United States with respect to their official duties in their official capacities;
- l. To discipline its officers when it is found that those officers have failed to uphold the laws of the United States with respect to their official duties in their official capacities; and
- m. To discharge its officers when it is found that those officers have unreasonably failed to uphold the laws of the United States with respect to their official duties in their official capacities, regardless of whether those officers have been previously disciplined for such conduct.

74. To the contrary, Defendant BLM has illustrated its grossly negligent, reckless, wanton, intentional, willful and deliberate indifference to the constitutional rights of Plaintiff Ms. Brooke Fantelli by the following:

- a. By failing, neglecting and refusing to train BLM officers to respect and protect the Federal constitutional and statutory rights of citizens, arrestees and detainees;
- b. By failing, neglecting and refusing to supervise BLM officers to assure that they do not use excessive force, and do not assault and batter citizens;
- c. By failing, neglecting and refusing to supervise BLM officers to assure that they respect and protect the Federal constitutional and statutory rights of citizens, arrestees and detainees;
- d. By failing, neglecting and refusing to terminate BLM officers who have a propensity for violence and who use excessive force;
- e. By instituting an unwritten policy that permits and encourages the use of excessive force against Transgendered Individuals to harm them in an attempt to discriminate and cause apprehension in Transgendered Individuals;
- f. By failing, neglecting and refusing to terminate BLM officers who have a propensity to discriminate unlawfully under the United States Constitution;

- g. By failing, neglecting and refusing to train BLM officers to assure that they know the proper procedures for investigating criminal conduct;
- h. By failing, neglecting and refusing to train BLM officers to assure that officers know how to properly use a taser;
- i. By failing, neglecting and refusing to train BLM officers to assure that officers know when it is necessary to use force;
- j. By failing, neglecting and refusing to train BLM officers in how to correctly handle Transgendered Individuals;
- k. By failing, neglecting and refusing to act reasonably in its hiring of its officers to make sure its officers are competent and will obey the laws of the United States when carrying out their duties;
- l. By failing, neglecting and refusing to act reasonably in its retention of its officers to make sure its officers continue to uphold the laws of the United States with respect to their official duties in their official capacities;
- m. By failing, neglecting and refusing to discipline its officers when it is found that those officers have failed to uphold the laws of the United States with respect to their official duties in their official capacities; and
- n. By failing, neglecting and refusing to discharge its officers when it is found that those officers have unreasonably failed to uphold the laws of the United States with respect to their official duties in their official capacities, regardless of whether those officers have been previously disciplined for such conduct.

75. The above acts or omissions of Defendant Officers were undertaken while under color of federal law and resulted in the violation of Plaintiff's constitutional rights, as stated herein. Likewise, the customs, practices, policies, and decisions of Defendants alleged herein and as applied to Plaintiff, resulted in violation of Plaintiff's constitutional rights.

76. At all times herein mentioned, there was no need for the force utilized against Plaintiff. There was no crime committed by Plaintiff and Plaintiff was complying with all

1 instructions of Ranger Petter. Plaintiff did not pose a threat to the safety of the Ranger Petter or
2 others and was not actively resisting arrest or attempting to evade arrest by flight.

3 77. The above acts, omissions, customs, practices and/or decisions of the defendants,
4 and each of them, while carried out under color of law, have no justification or excuse in law,
5 and instead constitute a gross abuse of governmental authority and power, shock the conscience,
6 are fundamentally unfair, arbitrary, and oppressive, and unrelated to any activity in which
7 governmental officers may appropriately and legally undertake in the course of protecting
8 persons, property, or ensuring civil order.

9 78. The above acts, omissions, decisions, customs, practices and/or policies were
10 consciously chosen from among various alternatives.

11 79. Each of the individual defendants and the BLM acted in concert and without
12 authorization of law and each of the individual defendants, separately and in concert, acted
13 grossly negligent, recklessly, wantonly, willfully, knowingly, with reckless disregard and callous
14 indifference, and purposely with the intent to deprive Plaintiff of her rights and privileges, and
15 did in fact violate the aforementioned rights and privileges, entitling Plaintiff to exemplary and
16 punitive damages against the individual defendants in an amount to be proven at the trial of this
17 matter.

18 80. As a direct, proximate result of the aforesaid acts, omissions, customs, practices,
19 policies and decisions of the defendants, and each of them, Plaintiff suffered and continues to
20 suffer from physical injuries, pain, suffering, and emotional suffering.

21 81. Additionally, as a direct, proximate result of the aforesaid acts, omissions,
22 customs, practices, policies and decisions, Plaintiff was injured and emotionally distressed and
23 thus was unable to work at her usual occupation, thus having loss of earnings and loss of
24 earnings capacity.

25 82. Plaintiff may maintain causes of action under 42 U.S.C. §1983 and recover
26 damages for the value of the Plaintiff's medical/hospital bills, bail, physical pain and suffering,
27 emotional distress, loss of earnings and loss of earning capacity, property damage, and punitive
28 damages.

83. At all times herein mentioned, Plaintiff is entitled to recover damages for her abovementioned injuries and damages, which Plaintiff alleges to be in excess of three dollars (\$3,000,000.00).

84. Additionally, Plaintiff has been forced to incur substantial amounts for attorneys fees, investigation expenses, and other expenses in the vindication of Plaintiff's constitutional rights. Plaintiff is thus entitled to and hereby demand costs, attorneys' fees and expenses pursuant to 42 U.S.C. § 1988.

SECOND CLAIM FOR RELIEF

(By Plaintiff against Defendant J. Petter and other unknown officers for a Bivens Claim (Pursuant to 42 USC 1983, Bivens v. Six Unknown Agents of the federal Bureau of Narcotics, 403 U.S. 388 (1971), and 28 USC 2679(b)(2))).

85. Plaintiff repeats and realleges each and every allegation of the foregoing paragraphs 1 through 84 as though fully set forth hereinafter.

86. On or about October 22, 2011, defendants, and each of them, acting within the course and scope of their employment with the BLM, forcefully detained Plaintiff and inflicted painful and unnecessary injuries upon her when she was tasered two times and was violently elbowed in the stomach even though Plaintiff neither resisted the defendants nor posed any threat to the defendants.

87. Defendant Petter's and other unknown officers' conduct alleged above is a violation of the First, Fourth, Fifth, and Eighth Amendments of the United States Constitution.

88. The First Amendment of the United States Constitution was violated by Defendant Petter and other unknown officers because they unlawfully limited Plaintiff's Freedom of Expression when they punished Plaintiff for expressing her Sexual/Gender Identity as a Transgendered Individual.

89. The Fourth Amendment of the United States Constitution was violated when Defendant Petter and other unknown officers seized Plaintiff without an arrest warrant, without any probable cause and without reasonable suspicion of any criminal activity.

1 90. The Equal Protection Clause and the Due Process Clause of the Fifth Amendment
2 of the United States Constitution was violated by Defendant Petter and other unknown officers,
3 because these defendants treated Plaintiff differently when they physically injured and arrested
4 her under the pretext of Public Drunkenness when really it was because they were intentionally
5 treating her more poorly and violently because she was a Transgendered Individual, as proven by
6 the difference in treatment of Danny Sheets who was not arrested for Public Drunkenness.

7 91. The Eighth Amendment of the United States Constitution was violated by
8 defendant Petter and other unknown officers, because Petter used his taser two times
9 unnecessarily on Plaintiff and improperly ripped the taser barbs out of Plaintiff, which was done
10 to inflict immense pain and injury on Plaintiff in addition to unnecessarily and violently
11 elbowing Plaintiff in the stomach, and thus constituted cruel and unusual punishment.

12 92. As a result of defendants' conduct, Plaintiff suffered physical injuries, pain and
13 suffering, and property damage to her jeans which ripped when defendant Ranger Petter
14 improperly used his taser on Plaintiff.

15 93. Said harmful and offensive conduct, i.e. the tasering and elbowing of Plaintiff
16 inflicted by defendants upon Plaintiff, was intentionally committed by defendants, and each of
17 them, and was willful, wanton, malicious and oppressive thereby justifying the awarding of
18 exemplary, or punitive, damages as to both Petter and other unknown officers, in an amount to
19 be proven at trial.

20 94. Moreover, as a legal, direct and proximate cause of the aforesaid conduct,
21 Plaintiff incurred Medical/Hospital Bills, bail, attorney's fees, and court costs.

22 95. Furthermore, as a legal, direct and proximate cause of the aforesaid conduct,
23 Plaintiff suffered and continues to suffer pain from her physical injuries, emotional distress, loss
24 of earnings and loss of earnings capacity, and property damage.

25 96. Said Constitutional Amendments were not waived by Plaintiff, nor was the
26 defendants' infliction of serious bodily injury upon Plaintiff privileged or immunized by the laws
27 of the United States.
28

1 97. Each of the individual defendants and the BLM acted in concert and each of the
 2 individual defendants, separately and in concert, acted willfully, knowingly, with reckless
 3 disregard and callous indifference, and purposely with the intent to deprive Plaintiff of her rights
 4 and privileges, and did in fact violate the aforementioned rights and privileges, entitling Plaintiff
 5 to exemplary and punitive damages against the individual defendants Ranger Petter and other
 6 unknown officers in an amount to be proven at the trial of this matter.

7 98. As a direct and proximate result of the aforementioned acts of Defendants, and
 8 each of them, Plaintiff Brooke Fantelli suffered the following injuries and damages, which
 9 Plaintiff alleges to be in excess of 3 million dollars (\$3,000,000.00), for which Plaintiff may
 10 recover:

- 11 a. Medical/Hospital Bills;
- 12 b. Bail;
- 13 c. Pain and Suffering;
- 14 d. Emotional Distress;
- 15 e. Loss of Earnings and Loss of Earnings Capacity;
- 16 f. Property Damage;
- 17 g. Attorney's Fees; and
- 18 h. Court Costs.

19 **WHEREFORE**, Plaintiff prays for judgment against defendants as follows:

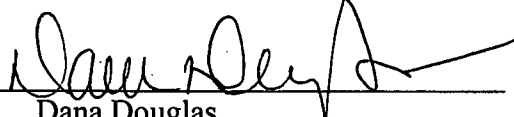
- 20 1. General damages for violation of Brooke Fantelli's Constitutional Rights under
 21 the First, Fourth, Fifth, and Eighth Amendments to the United States Constitution
 22 for violation of freedom of expression, for violation of the right to be free from
 23 unreasonable search and seizure, and for violation of the right to equal protection,
 24 and for violation of the right to be free from cruel and unusual punishment, in the
 25 sum of \$3,000,000.00;
- 26 2. Economic damages for Medical/Hospital bills in an amount according to proof at
 27 the time of trial;
- 28 3. Economic damages for Bail in the sum of \$25,000.00;

4. General damages for physical pain and suffering and trauma during the incident of October 22, 2011, in an amount according to proof at the time of trial
5. General damages for emotional trauma and distress during the incident of October 22, 2011, in an amount according to proof at the time of trial;
6. Loss of Earnings and Loss of Earnings Capacity as resulting from her being injured and distressed because Ms. Fantelli could not work during the time she was in the hospital for medical treatment and during her time at home during recovery. In addition, Ms. Fantelli could not work when she was incarcerated and when she was forced to hire an attorney to address the charges against her. Ms. Fantelli's earnings capacity is also diminished because she is terrified of encountering further government agents/officers who could engage in the same conduct as Ranger Petter. Ms. Fantelli is also fearful of going to the desert where her business takes place because of the chance of encountering Ranger Petter or other government agents/officers that could engage in this same violent and discriminatory conduct again, according to proof at the time of trial;
7. Property Damage as resulting from Ranger Petter's using the taser, which ripped Ms. Fantelli's clothes, in an amount according to proof at the time of trial;
8. Attorney's Fees, investigation expenses, costs, and other expenses in the vindication of Plaintiff's Constitutional Rights under 42 U.S.C. §1988 as resulting from this incident, in an amount according to proof at the time of trial;
9. Court Costs, as resulting from this incident;
10. Punitive damages to punish and make an example of Ranger Petter and other unknown officers in an amount according to proof at the time of trial;
11. For other general damages in an amount according the proof at trial;
12. For other special damages in an amount according to proof at trial;
13. For pre-judgment and post-judgment interest; and
- ///
- ///

1 14. For such other and further relief as the Court may deem just and proper;
2

3 Dated: March 10, 2012

DOUGLAS, LOPEZ & RUMM, LLP

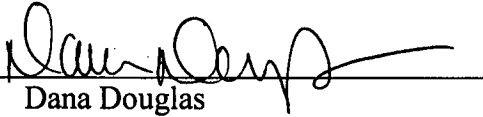
4 By: 
5 Dana Douglas
6 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff, Brooke Fantelli, hereby demands a trial by jury on all issues so triable.

Dated: March 10, 2012

DOUGLAS, LOPEZ & RUMM, LLP

By: 
Dana Douglas
Attorneys for Plaintiff

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Brooke Fantelli

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Dana Douglas, Esq. Douglas, Lopez & Rumm, LLP
333 S. Anita Drive, Orange, CA 92868

DEFENDANTS

United States Bureau of Land Management, and J. Petter, an Individual

County of Residence of First Listed Defendant Riverside

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
12CV0898 W JMA
BY FAX

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|--|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 195 Contract Product Liability
<input type="checkbox"/> 196 Franchise | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY
<input type="checkbox"/> 362 Personal Injury - Med. Malpractice
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture
<input type="checkbox"/> 620 Other Food & Drug
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 630 Liquor Laws
<input type="checkbox"/> 640 R.R. & Truck
<input type="checkbox"/> 650 Airline Regs.
<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 210 Land Condemnation
<input type="checkbox"/> 220 Foreclosure
<input type="checkbox"/> 230 Real Lease & Ejectment
<input type="checkbox"/> 240 Torts to Land
<input type="checkbox"/> 245 Tort Product Liability
<input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting
<input type="checkbox"/> 442 Employment
<input type="checkbox"/> 443 Housing/Accommodations
<input type="checkbox"/> 444 Welfare
<input type="checkbox"/> 445 Amer. w/Disabilities - Employment
<input type="checkbox"/> 446 Amer. w/Disabilities - Other
<input checked="" type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence
Habeas Corpus:
<input type="checkbox"/> 530 General
<input type="checkbox"/> 535 Death Penalty
<input type="checkbox"/> 540 Mandamus & Other
<input type="checkbox"/> 550 Civil Rights
<input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 791 Empl. Ret. Ins. Security Act
<input type="checkbox"/> 462 Naturalization Application
<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee
<input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1983 and 403 U.S. 388(1971) and 28 USC 2679(b)(2)

Brief description of cause:
Deprivation of Civil Rights under Color of Authority and BIVENS CLAIM

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 3,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/11/2012

SIGNATURE OF ATTORNEY OF RECORD

Dana Douglas

FOR OFFICE USE ONLY

RECEIPT #

3734

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

MD 04/12/12

ORIGINAL

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS037549
Cashier ID: mbain
Transaction Date: 04/12/2012
Payer Name: DOUGLAS LOPEZ RUMM

CIVIL FILING FEE
For: FANTELLI V US BUREAU OF LAND
Case/Party: D-CAS-3-12-CV-000898-001
Amount: \$350.00

CHECK
Check/Money Order Num: 133713
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$53.00
charged for any returned check.